

**STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES**

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance with Rhode Island General Law (RIGL) 42-35 and 42-72-5, notice is hereby given that the Department of Children, Youth and Families proposes to amend the following DCYF rule:

Criteria for a Child Protective Services Investigation

This amended rule updates processes for recording information in the Department's electronic information management system and eliminates repetitiveness in language. In the amendment of this rule, consideration was given to the following: (1) alternative approaches and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This amended rule is accessible on the DCYF website (<http://www.dcyf.ri.gov>) or the R.I. Secretary of State's website (<http://www.sec.state.ri.us/ProposedRules/>). Interested persons may submit written comments by November 7, 2011 to Susan Bowler, Department of Children, Youth and Families, 101 Friendship Street, Providence, RI 02903 (Susan.Bowler@dcyf.ri.gov).

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

Criteria for a Child Protective Services Investigation

Rhode Island Department of Children, Youth and Families

Policy: 500.0010

Effective Date: July 7, 1984 Revised Date: ~~December 29, 2006~~ _____ Version: ~~45~~

The Department of Children, Youth and Families ~~will~~ initiates a Child Protective Services (CPS) investigation when a report that meets ~~one of the five~~ Investigation Criteria ~~outlined below~~ is made to the ~~Department's~~ CPS Hotline. Reports may involve families new to the Department, families actively being serviced by the Department, families previously active with the Department and incidents of institutional abuse and/or neglect.

~~The~~ ~~in order for a Child Protective Investigation to be initiated,~~ a report must ~~always~~ involve a child under 18 years of age or under 21 years of age if the youth is residing in ~~DCYF~~ foster or institutional care or if the youth is in ~~Department-DCYF~~ custody, regardless of placement.

~~Investigation Criteria 1 - Child Abuse/Neglect (CA/N) Report - RIGL 40-11-3 requires the Department to immediately investigate reports of child abuse and neglect. The circumstances reported, if true, must constitute child abuse/neglect as defined by RIGL 40-11-2.~~

~~Investigation Criteria 2 - Non-Relative Caretaker - RIGL 42-72.1-4 requires that no parent shall assign or otherwise transfer to another, not related to him or her by blood or marriage, his or her rights or duties with respect to the permanent care and custody of his or her child under eighteen (18) years of age unless duly authorized by an order or decree of the court.~~

~~Investigation Criteria 3 - Sexual Abuse of a Child by Another Child - RIGL 40-11-3 requires the Department to immediately investigate sexual abuse of a child by another child.~~

~~Investigation Criteria 4 - Duty to Warn - RIGL 42-72-8 allows the Department to release information if it is determined that there is a risk of physical injury by a person to himself/herself or others and that disclosure of the records is necessary to reduce that risk. If the Hotline receives a report that a perpetrator of sexual abuse or serious physical abuse has access to another child in a family dwelling, that report is classified as an investigation and assigned for investigation.~~

~~Investigation Criteria 5 - Alert to Area Hospitals – Safety of Unborn Child - RIGL 42-72-8 allows the Department to release information if it is determined that there is a risk of physical injury by a person to himself/herself or others and that disclosure of the records is necessary to reduce that risk. The Department issues an alert to area hospitals when a parent has a history of substantiated child abuse/neglect or a child abuse/neglect conviction and there is concern about the safety of a child.~~

A report made to the CPS Hotline that contains a concern about the well-being of a child, but does not meet the criteria for an investigation, may be classified as an Information/Referral (I/R) Report. ~~Refer to~~ ~~if the report is classified as an I/R Report and the family is open to the Department, all staff involved with the case are notified and are required to review the report and respond in accordance with~~ **DCYF Policy 500.0040, Information/Referral (I/R) Reports.**

~~A report made to the CPS Hotline that meets the criteria outlined in any one of the following situations (1, 2, 3, 4, or 5) is investigated.~~

~~Investigation Criteria 1 – Child Abuse/Neglect (CA/N) Report – RIGL 40-11-3 requires the Department to immediately investigate reports of child abuse and neglect. The circumstances reported, if true, must constitute child abuse/neglect as defined by RIGL 40-11-2. In order to initiate a CPS investigation, there must be reasonable cause to believe that abuse/neglect~~

~~circumstances exist. For purposes of this policy, reasonable cause to believe is defined as a suspicion founded upon circumstances sufficiently strong to warrant a reasonable person to believe that there is evidence of abuse and/or neglect. CA/N Reports that contain all of the following elements are investigated:~~

- ~~• Harm or substantial risk of harm to the child is present.~~
- ~~• A specific incident or pattern of incidents suggesting child abuse and/or neglect can be identified.~~
- ~~• A "person responsible for the child's welfare" has allegedly abused or neglected the child. RIGL 40-11-2 defines a "person responsible for child's welfare" as the child's parent, guardian, any individual, eighteen (18) years of age or older, who resides in the home of a parent or guardian and has unsupervised access to a child, foster parent, an employee of a public or private residential home or facility or any staff person providing out-of-home care, which includes family child care, group family child care and center-based child care.~~

~~Investigation Criteria 2 – Non-Relative Caretaker – RIGL 42-72.1-4 requires that no parent shall assign or otherwise transfer to another, not related to him or her by blood or marriage, his or her rights or duties with respect to the permanent care and custody of his or her child under eighteen (18) years of age unless duly authorized by an order or decree of the court.~~

~~Investigation Criteria 3 – Sexual Abuse of a Child by Another Child – RIGL 40-11-3 requires the Department to immediately investigate sexual abuse of a child by another child.~~

~~Investigation Criteria 4 – Duty to Warn – RIGL 42-72-8 allows the Department to release information if it is determined that there is a risk of physical injury by a person to himself/herself or others and that disclosure of the records is necessary to reduce that risk. If the Hotline receives a report that a perpetrator of sexual abuse or serious physical abuse has access to another child in a family dwelling, that report is classified as an investigation and assigned for investigation.~~

~~Investigation Criteria 5 – Alert to Area Hospitals – Safety of Unborn Child – RIGL 42-72-8 allows the Department to release information if it is determined that there is a risk of physical injury by a person to himself/herself or others and that disclosure of the records is necessary to reduce that risk. The Department will issue an alert to area hospitals when a parent has a history of substantiated child abuse/neglect or a child abuse/neglect conviction and there is concern about the safety of a child. The Department will investigate when the Hotline receives a response to the alert upon the birth of the child.~~

Related Procedures

Criteria for a Child Protective Services Investigation

Related Policy

Information/Referral (I/R) Reports

Processing and Notifications for an Alleged Institutional Abuse/Neglect Case

Kinship Care

Investigation Criteria 1 – Child Abuse/Neglect (CAN) Report

Investigation Criteria 2 – Non-Relative Caretaker

Investigation Criteria 3 – Sexual Abuse of a Child by Another Child

Investigation Criteria 4 – Duty to Warn

Investigation Criteria 5 – Alert to Area Hospitals – Safety of Unborn Child

Criteria for a Child Protective Services Investigation

Criteria 1- Child Abuse/Neglect Report

Procedure from Policy 500.0010: Criteria for a Child Protective Services Investigation

I. Investigation Criteria 1

- A. The Department ~~will~~ investigate ~~s~~ reports that allege child abuse and/or neglect when as defined by RIGL 40-11-2. In order to initiate a CPS investigation, there must be reasonable cause to believe that abuse or /neglect circumstances exists. Child Abuse/Neglect (CA/N) Reports accepted for investigation ~~must~~ contain the following elements:
1. Harm or substantial risk of harm to the child (under 18 or under 21 years of age if in Department ~~DCYF~~ placement or ~~in~~ ~~DCYF~~ custody) is present.
 2. A specific incident or pattern of incidents suggesting child abuse and/or neglect ~~can be identified~~.
 3. A "person responsible for the child's welfare" has allegedly abused or neglected the child. RIGL 40-11-2 defines a "person responsible for the child's welfare" as the child's parent or guardian, any individual, eighteen (18) years of age or older, who resides in the home of a parent or guardian and has unsupervised access to a child, a foster parent (relative or non-relative), an employee of a public or private residential home or facility or any staff person providing out-of-home care, which includes family child care, group child care and center-based child care.
- B. Call Floor ~~Hotline~~ Child Protective Investigator (CPI) completes a Child Protective Services (CPS) report in RICHIST for all reports alleging child abuse and neglect ~~(refer to RICHIST Window Help, Create/Complete CPS Report)~~.
- C. Field CPI initiates an investigation within twenty-four ~~(24)~~ hours ~~or earlier~~ if the report is accepted for investigation.
- D. An if the investigation ~~relate~~ ings to a foster home or child care facility is conducted in conformance with, procedures outlined in DCYF Policy 500.0060, Processing and Notifications for an Alleged Institutional Abuse/Neglect Case ~~apply~~.

II. Investigation Criteria 2: Non-Relative Caretaker

- A. A CPS investigation is initiated when the Department receives a report that a parent has assigned or otherwise transferred to another, not related to him or her by blood or marriage, his or her rights or duties with respect to the permanent care and custody of his or her child under eighteen (18) years of age, unless the arrangement was authorized by an order or decree of the court.
- B. During the investigation, it is determined if the home is suitable for the child. If the placement is deemed appropriate, the Department licenses the caretaker if she/he meets licensing standards and is able to meet the needs of the child.
- C. If the placement is unsuitable, the Department removes the child and places him or her in an appropriate living arrangement. If the child must be placed in out of home care, the Department must first explore potential relatives as placement resources (refer to DCYF Policy 900.0025, Kinship Care).
- D. The Call Floor CPI completes a CPS report.

E. The Field CPI initiates an investigation within twenty-four hours if the report is accepted for investigation.

Investigation Criteria 2 – Non-Relative Caretaker

Procedure from Policy 500.0010: Criteria for a Child Protective Services Investigation

A. A CPS investigation will be initiated when the Department receives a report that a parent has assigned or otherwise transferred to another, not related to him or her by blood or marriage, his or her rights or duties with respect to the permanent care and custody of his or her child under eighteen (18) years of age, unless the arrangement was authorized by an order or decree of the court.

B. During the investigation, it will be determined if the home is suitable for the child. If the placement is deemed appropriate, the Department will license the caretaker if she/he meets licensing standards and is able to meet the needs of the child.

C. If the placement is unsuitable, the Department will remove the child and place him or her in an appropriate living arrangement. If there is a need for the Department to place the child in out of home care, federal and state law require the Department to first explore potential relatives as placement resources (refer to Policy 900.0025, Kinship Care).

D. Hotline CPI completes a CPS report (refer to RICHIST Window Help, Create/Complete CPS Report).

E. CPI initiates an investigation within twenty-four (24) hours or earlier if the report is accepted for investigation.

III. Investigation Criteria 3 – Sexual Abuse of a Child by another Child
Procedure from Policy 500.0010: Criteria for a Child Protective Services Investigation

- A. The Department is required by RIGL 40-11-3 to immediately investigate sexual abuse of a child by another child. The Department ~~will~~ initiate ~~an i-CPS~~ investigation when:
1. The incident appears to have occurred as a result of parental abuse or neglect.
 2. The nature of the sexual activity is determined to be unexpected, abusive and exploitative, even if there is no indication of parental abuse or neglect. The following factors ~~are~~ should be considered:
 - a. Coercion-based
 - b. Bullying and lack of parity
 - c. Age difference
 - d. One child is physically or mentally disabled
 - e. Explicit reenactment of adult sexual activity
 - f. Fear, shame or discomfort
 - g. One child's physical or mental health or welfare is harmed or threatened with harm as a result of the abuse.
- B. The Department does not consider ~~behavior~~ to be sexual abuse and ~~does~~ will not initiate a CPS investigation when ~~the nature of~~ the activity is determined to be expected, healthy and normative. The following factors ~~are~~ s should be considered:
1. Curiosity-based.
 2. Mutual interest and consent.
 3. Looking, touching.
 4. Often fun and silly.
- C. The Hotline CPI completes a ~~_~~CPS report ~~(refer to RICHIST Window Help, Create/Complete CPS Report).~~
- D. The Field CPI initiates an investigation within twenty-four ~~(24)~~ hours ~~or earlier~~ if the report is accepted for investigation.

IV Investigation Criteria 4: Duty to Warn

Investigation Criteria 4 – Duty to Warn

Procedure from Policy 500.0010: Criteria for a Child Protective Services Investigation

- A. RIGL 42-72-8 allows the Department to release information if ~~it is determined that~~ there is a risk of physical injury by the person to himself/herself or others, and that disclosure of the records is necessary to reduce that risk.
- B. In accordance with the law, a ~~Child Protective Services (CPS)~~ Investigation ~~is will be~~ initiated when the Hotline receives a report that a perpetrator, who has been convicted, adjudicated or indicated for the following categories of sexual abuse or serious physical abuse, has physical access to other children in a family.
 - 1. Convictions
 - a. Murder (involving a child)
 - b. First degree child abuse
 - c. Battery by an adult upon children ten years of age or younger - serious bodily injury
 - d. First degree child molestation
 - e. Second degree child molestation
 - 2. Adjudications in Family Court
 - a. Termination of Parental Rights ~~(TPR)~~ based on finding of conduct toward a child of a cruel and abusive nature
 - b. Sexual abuse
 - 3. Indicated Abuse Findings (CPS)
 - a. Death
 - b. Brain damage
 - c. Subdural hematoma
 - d. Internal injuries
 - e. Intercourse
 - f. Sexual exploitation
 - g. Molestation
- C. ~~The~~ Hotline ~~_CPI~~ completes a CPS report ~~(refer to RICHIST Window Help, Create/Complete CPS Report).~~
- D. ~~The~~ Field CPI initiates an investigation within twenty-four ~~(24)~~ hours ~~_or earlier~~ if the report is accepted for investigation.
- E. Field CPI attempts to verify any prior adjudication on a ~~DCYF~~ Dependency/Neglect/Abuse petition, criminal conviction in Family, District or Superior Court or a CPS indicated finding of allegations of sexual abuse and/or serious physical abuse pertaining to the alleged perpetrator.
- F. Field CPI ~~attempts~~~~makes efforts~~ to verify the identity of the person ~~who had~~ previously been adjudicated, convicted and/or been the subject of a prior CPS finding on charges/allegations of sexual abuse and/or serious physical abuse.
- G. Prior to responding to the home, the Field CPI contacts legal counsel to determine what, if any, information can be disclosed to the primary caretaker pursuant to the provisions of RIGL 42-72-8. After-hour inquiries are referred to the on-call administrator who ~~will~~ consults ~~with~~ Chief Legal Counsel.
- H. Field CPI responds to the home and interviews the child to determine if he/she has been a victim of any act of abuse and/or neglect by the alleged perpetrator.

- I. Field CPI determines if there is a substantial risk of imminent physical or emotional harm to any child residing in the same household as the alleged perpetrator or to whom the alleged perpetrator has frequent access. ~~In determining whether or not there is a substantial risk of imminent harm,~~ the CPI and his/her supervisor consider any appropriate factors in assessing risk to the child, which include but are not limited to:
1. How long ago the conviction, adjudication and/or indicated finding occurred;
 2. Whether the alleged perpetrator has engaged ~~in and~~ or is engaging in ~~any~~ clinical treatment to address the issues of prior sexual abuse and/or serious physical abuse;
 3. The age of the child(ren) residing in the household;
 4. Whether there has been any prior ~~Department~~CYF involvement with the child who is the subject of the current investigation;
 5. Whether or not the family is amenable to services; ~~and~~
 6. Whether the child has disclosed any acts of abuse and/or neglect by the alleged perpetrator.
- J. If the CPI, in consultation with his/her supervisor, determines that there exists a substantial risk of imminent harm to the child, the CPI advises the primary caretaker that the alleged perpetrator must not be allowed further access to the child.
- K. If the alleged perpetrator is a natural parent or legal guardian of the child and agrees to leave the home of the primary caretaker, the CPI consults with ~~Department's~~CYF Legal Counsel regarding the filing of a Dependency/Neglect/Abuse petition ~~with the Family Court.~~
- L. If the primary caretaker is unwilling or unable to ensure that the alleged perpetrator will not be allowed access to the child and/or the alleged perpetrator is unwilling to leave the residence of the primary caretaker, the CPI consults with legal counsel and takes immediate action to ensure the protection of the child.

V. Investigation Criteria 5:

Investigation Criteria 5—Alert to Area Hospitals – Safety of Unborn Child
Procedure from Policy 500.0010: Criteria for a Child Protective Services Investigation

- A. RIGL 42-72-8 allows the Department to release information if it is determined that there is a risk of physical injury by the person to himself or herself or others, and that disclosure of the records is necessary to reduce that risk.
- B. In accordance with this law, the Department ~~will~~ issues an alert to area hospitals when it is believed that there may be risk of harm to a child born to a parent with a history of substantiated child abuse or neglect or a child abuse/neglect conviction.
1. ~~Some~~ R reasons for an ~~alerts~~ alerts may include, but are not limited to:
 - a. Parent has exhibited behavior or conduct that is seriously detrimental to a child of a duration that renders it improbable for the parent to care for a child for an extended period of time.
 - b. Parent has subjected another child to aggravated circumstances, including abandonment, torture, chronic abuse or sexual abuse.
 - c. Parent has committed voluntary manslaughter of another child.
 - d. Parent has aided or abetted, attempted, conspired or solicited to commit such a murder or such a voluntary manslaughter.
 - e. Parent has had his/her parental rights to a sibling of the child terminated involuntarily.
 - f. There is a history of chronic substance abuse by one or both parents.
 - g. Parent has inflicted excessive corporal punishment upon a child, resulting in physical injury to the child.
 - h. Parent has a history of mental or emotional disability which has proven to render the parent unable to care effectively for his or her children.
 2. The alert requests that the hospital contact the CPS Hotline upon the birth of the infant as a result of the Department's concerns about the welfare of the child.
- C. Issuing an Alert
1. An alert regarding the safety of an unborn child may be initiated by a Family Service Unit (FSU) worker, by a ~~Child Protective Services (CPS)~~ worker or by a Juvenile Correctional Services (JCS) worker ~~depending on whether the case is opened or not opened to the Department.~~
 - a. An alert may be initiated by an FSU worker on an open case, on a case that will close during the pregnancy due to a Termination of Parental Rights or on a recently closed case.
 - b. An alert may be initiated by a Call Floor Hotline CPI on a case not open to the Department.
 - c. An alert may be initiated by a ~~Juvenile Correctional Services (JCS)~~ worker, which includes Juvenile Probation and the Rhode Island Training School.
 2. Worker discusses the need for an alert with his/her supervisor and administrator in order to obtain approval.
 3. Upon approval, the following processes are completed:
 - a. FSU, CPS or JCS supervisor completes a Case Activity Note (CAN) in RICHIST ~~(refer to RICHIST Window Help, Create CAN)~~, indicating any special instructions, such as an available placement resource.
 - b. Supervisor sends an e-mail to all CPS administrators informing them of the alert.
 - c. Worker completes the DCYF # 199, Alert to Area Hospitals - Safety of Unborn Child.
 4. FSU, CPS or JCS supervisor and administrator sign the alert.
 5. FSU, CPS or JCS supervisor sends the alert to area hospitals.

~~D. When the Hotline receives a response to the alert upon the birth of the child, the report is reviewed. A determination is made whether the report is assigned for investigation or downgraded to an I/R Report in conformance with **DCYF Policy 500.0040, Information/Referral (I/R) Reports.**~~

~~E. A CPS Investigation will be initiated when the Department receives a response from an area hospital to the DCYF # 199, Alert to Area Hospitals – Safety of Unborn Child upon the birth of the child.~~

~~D. _____~~